

ASSEMBLY BILL

No. 484

Introduced by Assembly Member Alejo

February 15, 2011

An act to amend Section 65965 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 484, as introduced, Alejo. Land use: natural resources: transfer of long-term management funds.

The Planning and Zoning Law authorizes a state or local public agency to authorize a nonprofit organization to hold title to, and manage an interest in, real property that the state or local public agency requires a property owner to transfer to the agency to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, provided the nonprofit organization meets specified conditions. That law also authorizes an agency that, in the development of its own project, is required to transfer an interest in real property to mitigate an adverse impact upon natural resources, to transfer the interest to a nonprofit organization that meets the specified conditions.

This bill would authorize funds set aside for the long-term management of any lands or easements conveyed to a nonprofit organization pursuant to the above provisions to also be conveyed to the nonprofit organization. The bill would also authorize the nonprofit organization to hold, manage, invest, and disburse the funds in furtherance of managing and stewarding the land or easement for which the funds were set aside.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 65965 of the Government Code is amended to read:

65965. (a) For the purposes of this section, the following definitions apply:

(1) “Direct protection” means the protection and preservation of natural lands or resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, or outdoor recreational areas.

(2) “Stewardship” encompasses the range of activities involved in controlling, monitoring, and managing for conservation purposes a property, or a conservation or open-space easement, as defined by the terms of the easement, and its attendant resources.

(b) Notwithstanding any other provision of law to the contrary, if a state or local public agency requires a property owner to transfer to the agency an interest in real property to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, the state or local public agency may authorize a nonprofit organization to hold title to and manage that interest in real property, provided that the nonprofit organization is all of the following:

(1) Exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code, and qualified to do business in the state.

(2) A “qualified organization” as defined in Section 170(h)(3) of the Internal Revenue Code.

(3) An organization that has as its principal purpose and activity the direct protection or stewardship of natural land or resources, or cultural or historic resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

(c) If a state or local public agency, in the development of its own project, is required to transfer an interest in real property to mitigate an adverse impact upon natural resources, the agency may transfer the interest to a nonprofit organization that meets the requirements set forth in paragraphs (1) to (3), inclusive, of subdivision (b).

(d) *Funds set aside for the long-term management of any lands or easements conveyed to a nonprofit organization pursuant to*

1 *subdivisions (b) and (c) may also be conveyed to the nonprofit*
2 *organization. The nonprofit organization may hold, manage, invest,*
3 *and disburse the funds in furtherance of managing and stewarding*
4 *the land or easement for which the funds were set aside.*

5 ~~(d)~~

6 (e) The recorded instrument that places title with a nonprofit
7 organization pursuant to subdivision (b) shall include, at a
8 minimum, a provision that if the state or local public agency that
9 authorized the nonprofit organization to hold the title, or its
10 successor agency, determines that the interest in real property that
11 is held by the nonprofit organization is not being held, monitored,
12 or managed for conservation purposes in the manner specified in
13 that instrument or in the mitigation agreement between the state
14 or local public agency and the nonprofit organization, the interest
15 in real property shall revert to the state or that local public agency,
16 or to another public agency or nonprofit organization qualified
17 pursuant to subdivision (b), approved by the state or local public
18 agency.

19 ~~(e)~~

20 (f) A state or local public agency shall exercise due diligence
21 in reviewing the qualifications of a nonprofit organization to
22 effectively manage and steward natural land or resources, *as well*
23 *as the accompanying funds.* The state or local public agency may
24 adopt guidelines to assist the agency in that review process.